

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

CHARLES L. NAIL, JR.
BANKRUPTCY JUDGE



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April 1, 2010

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Counsel for Defendant Great Western Bank
Post Office Box 1030
Aberdeen, South Dakota 57401-1030

Subject: *Trustee Forrest C. Allred v. Great Western Bank, et al. (In re Randall Joseph and Joyce Lilene Unger)*, Adv. No. 09-1019;
Chapter 7; Bankr. No. 08-10174

Dear Counsel:

In its response to Trustee Allred's Motion for Judgment on the Pleadings, Great Western Bank asserted a right to setoff that was not specifically mentioned in its answer, and it submitted an affidavit in support of its response. Pursuant to Fed.R.Bankr.P. 7012 and Fed.R.Civ.P. 12(d), the Court will therefore treat Trustee Allred's Motion for Judgment on the Pleadings (adv. doc. 11) as a motion for summary judgment under Fed.R.Bankr.P. 7056 and Fed.R.Civ.P. 56. If either of you wishes to present any additional material that is pertinent to Trustee Allred's motion, you may do so on or before April 9, 2010. The Court will then take the matter under advisement.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Nail", is placed below the word "Sincerely,".

Charles L. Nail, Jr.
Bankruptcy Judge

CLN:sh

cc: adversary file (docket original; serve all parties in interest)

On the above date, a copy of this document was mailed or faxed to the parties shown on the Notice of Electronic Filing as not having received electronic notice.

Frederick M. Entwistle
Clerk, U.S. Bankruptcy Court
District of South Dakota

NOTICE OF ENTRY
Under Fed.R.Bankr.P. 9022(a)

This order/judgment was entered on the date shown above.

Frederick M. Entwistle
Clerk, U.S. Bankruptcy Court
District of South Dakota